



## **Multistate Tax Commission Memorandum**

States Working Together Since 1967 . . . To Preserve Federalism and Tax Fairness

To: Members of the Commission  
From: Joe Huddleston, Executive Director  
Date: July 29, 2005  
Subject: 109<sup>th</sup> Congress Legislative Activity and MTC Responses

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The MTC has interpreted the application of Policy Statements 03-01, 02-02 and 02-01 to specific proposed federal legislation introduced in the 109<sup>th</sup> Congress as follows:

### **Statement of Application of Policy Statement 03-01 to Specific Federal Legislative Measures**

The Multistate Tax Commission strongly urges Congress, in regards to S. 1097 and H.R. 2558 (“Telecommuter Tax Fairness Act of 2005”) to respect the sovereignty of states in developing and administering their own taxes within constitutional limits. The Multistate Tax Commission is prepared to assist states in resolving the issue of imposing income tax on taxpayers who telecommute between two taxing jurisdictions.

This Statement of Application will expire at the close of session of the 109<sup>th</sup> Congress.

### **Statement of Application of Policy Statement 03-01 to Potential Federal Legislative Measures**

The MTC strongly urges Congress, in rewriting the Telecommunications Act of 1996, to respect state taxing authority with respect to telecommunications services as well as the integrity of state tax and judicial systems by not delegating preemptive authority to the executive branch through preservation of the “state tax savings clause” in the 1996 Act, which provides that the Act, with certain limited exceptions, has no effect on state and local tax laws that otherwise meet federal constitutional standards. The Multistate Tax Commission further urges Congress to refrain from enacting any additional preemption of state authority to tax telecommunications or other services.

This Statement of Application will expire at the close of session of the 109<sup>th</sup> Congress.

### **Statement of Application of Policy Statement 03-01 and Policy Resolution 01-09 to Specific Federal Legislative Measures**

The Multistate Tax Commission strongly opposes H.R. 1369, insofar as it is an unwarranted preemption of state authority, and creates tax discrimination among similarly situated taxpayers. In addition, H.R. 1369 provides certain taxpayers special treatment by affording those taxpayers access to federal courts, thereby creating the potential for preferential treatment with respect to property taxpayers without such access.

This Statement of Application will expire at the close of session of the 109<sup>th</sup> Congress.

### **Statement of Application of Policy Statement 03-01 and Policy Resolution 05-04 to Specific Federal Legislative Measures**

The Multistate Tax Commission strongly opposes S. 849 (Internet Tax Nondiscrimination Act), H.R. 1684 (Internet Tax Nondiscrimination Act of 2005) and H.R. 1685 (Internet Consumer Protection Act), insofar as these bills are an unwarranted preemption of state authority. In 2004, the Commission was part of the effort to reach a compromise on S. 150, “The Internet Tax Nondiscrimination Act” which among other things, enacted the moratorium on state taxation of Internet access for four years, and preserved the “grandfather clause” for those states that imposed tax on Internet access service before a certain date. The law also mandated the Government Accountability Office (GAO) to conduct a study on the impact of the moratorium, including its effects on state and local revenues, the results of which are to be reported to the Senate Committee on Commerce, Science and Transportation and the House Committee on Energy and Commerce by November 1, 2005. S. 849, H.R. 1684 and H.R. 1685 make permanent the current moratorium on state and local taxes on Internet access, and H.R. 1685 further repeals the “grandfather clauses” protecting certain pre-existing taxes, all of which is premature in light of the GAO study mandated by S. 150.

This Statement of Application will expire at the close of session of the 109<sup>th</sup> Congress.

### **Statement of Application of Policy Statement 02-02 to Specific Federal Legislative Measures**

The Multistate Tax Commission fully supports H.R. 1234 and H.R. 2625, intended to curtail the promotion and use of abusive corporate tax shelters, and strongly urges Congress to pass such legislation.

This Statement of Application will expire at the close of session of the 109<sup>th</sup> Congress.

### **Statement of Application of Policy Statement 03-01 and 02-02 to Specific Federal Legislative Measures**

The Multistate Tax Commission strongly opposes H.R. 1956 insofar as it is an unwarranted preemption of the states' authority to levy tax on the business activities of multistate enterprises, and encourages the creation and use of tax shelters to unfairly shift income away from the jurisdiction where that income is earned, thereby undermining a state's ability to provide government services not only to the general citizenry, but also to the enterprise doing business within the state.

This Statement of Application will expire at the close of session of the 109<sup>th</sup> Congress.

### **Statement of Application of Policy Statement 02-01 to Specific Federal Legislative Measures**

The Multistate Tax Commission strongly urges states that have not adopted the Streamlined Sales Tax Agreement to pass legislation doing so. The Commission further respectfully urges the Congress, in considering federal legislation authorizing states that have adopted the Agreement to require collection of sales tax on remote sales, limit its consideration to approve or disapprove of the Agreement as adopted by the states. If the Congress identifies additional issues with respect to sales tax simplification, the Commission respectfully urges the Congress to request states that have adopted the Agreement to consider these additional issues, rather than incorporating such into federal legislation as a requirement for the Agreement itself.

This Statement of Application will expire at the close of session of the 109<sup>th</sup> Congress.